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STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

March 12, 2003

TO: State Board of Education

FROM: Thomas D. Watkins, Jr., Chairman

SUBJECT: Discussion with Public School Academy Authorizers

Representatives of the four largest authorizers of public school academies will be present to advise the Board regarding their efforts to address the findings of the *Performance Audit of the Office of Education Options, Michigan Department of Education* by the Office of the Auditor General. They will also discuss how they encourage and support the public school academies in implementation of the State Board's *Strategic Goal for 2003-2004*.

Those to be present include:

- ❑ James Goenner, Executive Director, Charter Schools Office, Central Michigan University
- ❑ Jimmie Rodgers, Director of Charter Schools, Ferris State University
- ❑ Ronald Schneider, Director of Charter School Program, Saginaw Valley State University
- ❑ Ed Richardson, Special Assistant, Charter School Office, Grand Valley State University

Attached for your information is the document: *Performance Audit, Office of Education Options, Authorizer Exceptions—Selected Findings* prepared by MDE, Office of Education Options, for your review and consideration. The document summarizes findings of the Auditor General's *Performance Audit* pertinent to the role of the authorizers.

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**PERFORMANCE AUDIT
OFFICE OF EDUCATION OPTIONS
AUTHORIZER EXCEPTIONS - SELECTED FINDINGS**

The Auditor General staff visited 22 public school academies, authorized by seven (7) authorizers. The following selected findings are noted:

Measurable Performance Standards

- Not all PSAs had measurable Performance Standards
- Performance Standards must correlate to academic focus

Conflicts of Interest/Educational Management Organizations

- Some affiliates of PSAs were related through business association and/or marriage or family ties
- A PSA provided free space to an on-site childcare service associated with a PSA board member

An educational management organization (EMO) employee who worked at a PSA also had a contractual relationship with the EMO to provide janitorial services at the PSA

- Some EMO associates were charter applicants
- Some EMO charter applicants recommended original PSA Board member and those PSA Board members approved EMO contracts
- Some EMO associates:
 - lease or sell property
 - lease or sell buildings and equipment
 - loan money to PSAs
- A PSA board's independence may be impaired by its management company contract:
 - One EMOs fee for two academies equated to 100% of all net revenue
 - Both PSAs had no fixed assets or fund balance although their state aid combined equaled \$3.4 million
 - Both PSA boards leased the building and equipment from the EMO
 - Not all contracts between authorizers and PSAs ensure that all PSA operational costs are available to the public (one EMO, as a private corporation, contended that it was not subject to the Freedom of Information Act (FOIA), i.e., Section 15.243a of the *Michigan Compiled Laws*, regarding salary records of school employees - Such exclusion prevents full public disclosure of the cost of operating a PSA)

PSA Facility Occupancy Approval

- The State's sanitation rules for school facilities, *Michigan Administrative Code R 325.721 - 325.734*, were not enforced by the local public health agencies performing an inspection at the school facility

Safe Facilities

- Based on (*Michigan Administrative Code R 29.1901 - 29.1934*), and the State's sanitation standards for schools (*Michigan Administrative Code R 325.721 - 325.734*), Section 29.19 of the *Michigan Compiled Laws* staff of the Auditor General, based on their professional judgment and observations at the time of their visit to the PSAs, assigned a composite rating of levels 1-4.
 - Three (14%) PSAs were rated as level 1. These facilities were generally newly constructed or totally remodeled for the purpose of classroom use.
 - Seven (32%) PSAs were rated as level 2. These facilities were generally well maintained or extensively remodeled.
 - Seven (32%) PSAs were rated as level 3. These facilities were generally not well-maintained or included safety hazards that posed a risk to the safety of the students.
 - Five (23%) PSAs were rated as level 4. These facilities were generally poorly maintained or included safety hazards that, in our judgment and, when necessary, confirmed by OFS, posed a risk to the safety of the students.
 - Three (14%) did not have fire or tornado drill procedures in place and/or had not performed the required 8 fire drills or 2 tornado drills (Section 29.19 of the *Michigan Compiled Laws*) each school year.

Teacher Certification, Employee Background, and Unprofessional Conduct Checks

- Teachers often did not hold the appropriate certification:
 - Review of school year 2000-01 certification credentials for 524 teachers disclosed that 144 (27%) teachers were not properly certified.
- PSAs often did not obtain required teacher and school administrator background checks. Review of background check activity for 514 teachers and administrators disclosed that the PSAs had not requested or had not yet received 186 (36%) state and 228 (44%) federal background checks, as required by statute.
- PSAs often did not obtain employee unprofessional conduct checks.

Emergency Permit Applications

- For the school year ended June 30, 2001, MDE issued 987 emergency permits statewide, 510 (52%) were issued to PSAs.

- Of the 524 individuals at 22 PSAs, 139 (27%) were working based on their application for, or receipt of, an emergency permit. On-site reviews disclosed:
 - The Department had no record that it received 26 (19%) of 139 emergency teacher permit applications that the PSAs reported submitted.

Religious Symbols or Messages

- Six PSAs appeared to have violated at least one component of the Establishment Clause test.

Legislation or Administrative Rules and Related Policies and Procedures

Review of Department activities and operations disclosed:

- Statute or administrative rule does not provide authorizers with options less than revocation to help enforce their PSA contracts.
- Statute or administrative rule does not require authorizers to submit to the Department their PSAs Articles of Incorporation and annual nonprofit corporation update reports.
- Statute or administrative rule does not require PSA board members to be residents of the state.
- Statute or administrative rule does not limit the length of term for which an authorizer can issue a PSA contract.
 - One authorizer issued 10-year contracts to 2 of its PSAs.
- The Department, and authorizers, had not developed policies and procedures to ensure that PSAs had obtained all required operating licenses.
- The Department had not developed policies and procedures to ensure that authorizers had established a reauthorization process.
 - Two of the 7 authorizers had not developed a process for reauthorizing their PSAs.
- The Department had not established policies and procedures to ensure that authorizers issued PSA charters on a competitive basis (Section 380.503(1) of the *Michigan Compiled Laws*).

PSA Board Operations

PSA boards did not always comply with provisions of the Open Meetings Act.

- PSAs' boards did not always comply with statutes and authorizers' contracts and policies (authorizers did not always comply with their policies and procedures).
 - Five PSAs did not obtain an oath of office from 5 board members as required by Section 15.151 of the *Michigan Compiled Laws*.
 - Four PSAs did not obtain the oath of office for 10 board members prior to the board members starting their term.

- Two PSAs allowed board members to vote via the telephone on issues before the board in violation of Attorney General Opinion No. 5183 (dated March 8, 1977).
- One PSA allowed an individual who had been appointed to the board, but whose term had not yet started, to vote.
- Five board members at 5 PSAs were absent excessively from board meetings (missing 56% to 76% of the meetings).
- One authorizer did not screen and appoint board members to its PSAs after it approved the initial boards. As a result, boards for the two PSAs appointed their own subsequent members resulting in members with potential conflict of interest.

PSA Board Policies and Procedures

Six of seven authorizers had developed checklists as part of their internal controls to help ensure that the PSAs that they had chartered had adopted certain policies and procedures. However, the authorizers sometimes did not verify that policies and procedures had been adopted and were appropriate.

Seven PSA boards had not adopted written policies governing the procurement of supplies, materials, and equipment as required by Section 380.1274(1) of the *Michigan Compiled Laws*.

Nine PSA boards had not adopted a policy that contains the prohibition of corporal punishment as a means of student discipline as specified by Section 380.1312(3) of the *Michigan Compiled Laws*.

- One PSA board had not adopted a policy that contains the prohibition against dangerous weapons as specified by Section 380.1313 of the *Michigan Compiled Laws*.

One PSA board had not adopted a policy that contains the nondiscrimination requirements for pupil admission as specified by Sections 380.504(2) and 37.2402 of the *Michigan Compiled Laws*.

- Four PSA boards had not adopted a policy addressing the requirements of the Americans with a Disabilities Act as required by Section 380.504(2) of the *Michigan Compiled Laws*.
- Two PSA boards had not adopted a policy that contains the prohibitions included in the Elliott-Larson Civil Rights Act as required by Section 37.2205 of the *Michigan Compiled Laws*.

Four PSA boards had not developed procedures for the implementation of the statewide school safety information policy (Section 380.1308(2) of the *Michigan Compiled Laws*). The policy requires a school to identify the types of incidents occurring at school that must be reported to law enforcement agencies and to establish procedures to be followed when such an incident occurs.

- Nineteen PSA boards had not adopted a policy that specifies the type of criminal activity that would lead to job applicant disqualification. Such policy should be adopted to help ensure that employees who may endanger the safety of a student are not hired.

Financial Related Internal Controls

Review of financial related internal controls and selected financial transactions disclosed:

- The accounting records for 3 PSAs and their authorizers did not reconcile:
 - The accounting records (general ledger) for one authorizer did not reconcile with Department records for state school aid foundation payments for the State's fiscal year ended September 30, 1996:

Authorizer's reported receipts were \$75,366 less than the amount that the Department disbursed. The authorizer's general ledger for subsequent years reconciled with Department records.

- The general ledgers for one authorizer and one of its PSAs did not reconcile because the PSA's management company did not accurately report state revenue.

One PSA did not maintain its accounts in accordance with the uniform chart of accounts prescribed by the Department as required by Section 380.1281(1)(c) of the *Michigan Compiled Laws and Michigan Administrative Code R 340.852*.

- Three PSAs did not maintain adequate internal control over their financial assets:
 - One PSA board required only 1 of 3 authorized signatories to sign for the withdrawal of funds from the PSA's bank account of which two of the three signatories were related by marriage.
 - One PSA had two sets of checks with duplicate check numbers, one maintained by the PSA and the other maintained by the PSA's management company--checks with duplicate numbers were issued to pay different vendors.
 - One PSA made several payments directly to the president/school administrator of its management company (of which the individual was part owner/shareholder) for reported equipment rentals and for repairs and maintenance work. The president/school administrator authorized these payments.

- One PSA hired a contractor to provide services that the PSA's management company was already contractually required to provide.
- Three PSAs made payments to their management companies for indirect costs, at a per-pupil rate, that were not independently audited. Also, these management companies or their associated entities were the charter applicants that recommended the original PSA board members, leased or sold property and/or buildings and equipment, and made loans to the PSAs.
- One PSA's scheduled loan payments were based on estimated rather than actual costs of leaseholder improvements. Based on estimated costs, the PSA will make overpayments totaling \$29,185.
- Four PSAs did not adequately document their bidding processes for the procurement of supplies, materials, and equipment.
- Two PSAs did not have contracts and three PSA boards did not sign their contracts for items such as the management agreement, use of school facilities for childcare services, lease of equipment, and lease of the school building.

Student Records

Review of student records disclosed:

- Documentation of subjects taken with applicable grades was not contained in 60 (18%) of 331 student records tested.
- Birth certificates were not contained in 42 (11%) of 388 student records tested.
 - Section 380.1135(1) of the *Michigan Compiled Laws* requires a school district to notify the individual enrolling a student for the first time that he or she must provide a certified copy of the student's birth certificate. This information is to be retained 99 years.
- Immunization records were not contained in 26 (7%) of 388 student records tested.
 - Section 380.1177(1) of the *Michigan Compiled Laws* states that a child enrolling in a public school for the first time shall submit a statement signed by a physician that the child has been immunized or is in the process of being immunized. This information is to be retained until high school graduation.
- Required vision test results were not contained in 151 (42%) of 363 student records tested.

- o Section 380.1177(2) of the *Michigan Compiled Laws* states that the parent or guardian of each child enrolling in kindergarten for the first time shall submit evidence of a preschool vision-screening test. This information is to be retained until high school graduation.